

In the United States Court of Federal Claims

WHITE BUFFALO CONSTRUCTION, INC.,

Plaintiff,

v.

THE UNITED STATES,

Defendant.

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No. 99-961C
(consolidated with 00-415C)

Senior Judge Loren A. Smith

Filed: May 11, 2007

ORDER

On April 24, 2007, the Court held oral argument on the Defendant's Motion to Dismiss. For the reasons set forth at oral argument, the Court **DENIES** Defendant's Motion to Dismiss. This Order memorializes that Order for the reasons below, based upon three concerns.

First, the Court found that some issues relating to this case clearly remain unripe, and some claims stemming from the same set of facts were still being remedied administratively. In any case, a broader and more fully-informed picture of the case, as a whole, will allow a more efficient application of justice. Therefore, in the interest of judicial economy, the Court found it more efficient to allow all matters in this case to ripen before ruling on any of them individually.

Second, the Court found that there is some ambiguity in the law regarding the consequences of the government's converting a termination by default to a termination for convenience. Specifically, there is some question as to attorney fees when one cause of action is subject to the conversion but other causes stemming from the same set of facts are not. It is also possible that a premature decision relating to one part of a case may be detrimental (or even preclusive) to another. It is, therefore, also more judicially efficient to proceed only when the matters may be seen as a whole.

Third, the Court recognized that attorney fees are at issue in this case and such attorney fees will continue to accrue while the Plaintiff pursues the closely-related claims articulated at argument. Once again, the Court found it more judicially efficient to allow all related matters to be heard together.

In light of the foregoing, the Court **SCHEDULES** a telephone status conference on September 5, 2007 at 3:00 p.m. EDT. The Court hereby **STAYS** this case until September 5, 2007.

It is so ORDERED.

s/ Loren A. Smith
LOREN A.SMITH
SENIOR JUDGE